



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 25

COUPONS AND GIFTS

This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains general and specific information of interest as well as interpretations and determinations by Maine Revenue Services regarding issues commonly faced by your business. Portions of the Sales and Use Tax Law referred to in this bulletin can be found at the end of the bulletin in Attachment #1. Also attached are applicable Sales and Use Tax Rules.

1. COUPONS

§1752(14-B), excludes from the definition of "sale price" discounts allowed by sellers. When a seller offers a discount on the sale of tangible personal property, the discount is deducted from the sale price before computing the sales tax.

Coupons are issued by either a manufacturer of the product or by a retailer. The application of sales tax in each case differs as discussed below.

a. Manufacturers' Coupons. When a retailer accepts a manufacturers' coupon, the retailer does not recognize any loss in the profit made on the sale. The retailer is reimbursed for the face value of the coupon by the manufacturer. In other words, the patron uses the coupon like cash and the retailer receives the cash when the coupons are redeemed with the manufacturer. The sale price on which tax is based is the total selling price before deducting the coupons.

Example: A customer, when purchasing laundry detergent, redeems a coupon issued by the manufacturer of the detergent. The sale price of the detergent is \$2.29 and the face value of the coupon is \$.25. The sales tax is computed on \$2.29; the sale price before deducting the value of the coupon.

b. Retailer's Coupons. When a retailer issues a store coupon, the retailer is reducing the price of the item purchased with the coupon by an amount equal to the face value of the coupon. The retailer reduces his profit on the sale and the value of the coupon is not recovered from any other party. This type of coupon is a seller's discount which is deducted from the sale price before computing the sales tax.

Example: A drug store publishes in an advertising flyer its own store coupon offering \$.50 off the purchase of a particular shampoo. The shampoo sells for \$2.89. The sales tax is computed on \$2.39; the sale price after deducting the value of the coupon.

c. Coupon Books. A coupon book is a collection of discount coupons for a variety of businesses usually assembled by an organization and sold as a fund raising activity. The sale of the coupon book itself is not a taxable transaction as it is not considered a sale of tangible personal property but rather the sale of intangible future discounts. The organization would be responsible for paying tax on the printing and production costs of the book itself. When the coupon is redeemed, it would be considered a seller's discount which is deducted from the selling price before computing the sales tax, unless the coupon is a manufacturer's coupon.

2. GIFTS.

Retailers may engage in promotional activities which result in various products being given away. Such activities may include one of the following.

a. Drawings, raffles, etc. When a retailer conducts a drawing or raffle, the retailer is responsible for payment of tax on the item being awarded the winner based on the retailer's cost. If the item is withdrawn from inventory, use tax accrues at the time of withdrawal and would be reported as "taxable purchases" on the sales tax return. If the retailer purchases the item specifically for this contest, the retailer should pay tax to the supplier.

b. Free gifts given to customers. A retailer may provide free gifts to all customers, such as calendars, pens and key chains. Or the retailer may offer a promotion where certain products are given away to the first 100 customers. In either case, the retailer is responsible for use tax, as discussed above, on the goods given away.

c. Buy one, get one free promotions. In promotions where a customer purchases an item and receives another item of the same kind at no additional charge, the retailer is actually selling both products at the full sale price and offering a seller's discount equal to the value of one of the items. Sales tax would apply to the actual sale price paid by the customer. Use tax is not applicable to the item sold at no charge.

d. Complimentary gift with purchase of an item. If a gift is made by a retailer to a customer at the time of, and in connection with, the sale of specific merchandise, the gift is considered a part of the sale. For instance, with every purchase of a dining room set, a set of dishes is provided at no charge. Sales tax would apply to the actual sale price paid by the customer. Use tax is not applicable to the gift.

However, if the item being purchased is exempt from tax and the gift is a taxable item, the retailer is responsible for use tax on the gift. For instance, a bowl is given with each purchase of a package of cereal.

3. REBATES.

Rebates provided by manufacturers to purchasers of tangible personal property are not discounts allowed between the seller and the purchaser. Sales tax is computed on the total sale price without any deduction for the manufacturer's rebate. The fact that the rebate is assigned by the purchaser to the seller does not change the taxability of the transaction.

4. ADDITIONAL INFORMATION.

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law faced by your business. It is not intended to be all inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to the:

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ATTACHMENT #1
Excerpts taken from 36 M.R.S.A.

36 §1752, Definitions

14. Sale price. "Sale price" means the total amount of a retail sale valued in money, whether received in money or otherwise.

A. "Sale price" includes:

- (1) Services which are a part of a retail sale; and
- (2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses.

B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise or with respect to fabrication services pursuant to warranty;
- (3) The price of property returned or fabrication services rejected by customers, when the full price is refunded either in cash or by credit;
- (4) The price received for labor or services used in installing or applying or repairing the property sold or fabricated, if separately charged or stated;
- (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, motel, restaurant or other eating establishment to its employees as wages;
- (6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;
- (7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail.